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October 14, 2025

VIA PAGA FILING PORTAL

Labor & Workforce Development Agency (LWDA)

Re: LWDA-CM-1128527-25
Mark Harvey v. Aya Healthcare, Inc.

To Whom It May Concern:

Our firm represents Aya Healthcare Services, Inc., improperly named herein as Aya Healthcare, Inc. (“Aya Healthcare”) regarding the September 26, 2025 PAGA Notice submitted by Mark Harvey.¹

Aya Healthcare hereby object to the PAGA Notice and respectfully requests that (i) the LWDA require Mr. Harvey to withdraw and amend his PAGA Notice and (ii) grant Aya Healthcare an additional 33 days from the date of such amendment to investigate and cure any properly noticed, legitimate violations (or, if he is unable to do so, require him to withdraw his allegations entirely.)

The basis for this request is that Mr. Harvey lacks standing to pursue a representative action under PAGA because he cannot establish that he personally sustained any Labor Code violations. A PAGA notice to the LWDA must identify “the specific provisions of this code alleged to have been violated, including the *facts and theories* to support the alleged violation.” (Lab. Code, § 2699.3, subd. (c)(1), emphasis added.) Recent amendments to PAGA further require that an allegedly aggrieved employee demonstrate that he personally suffered each of the alleged Labor Code violations identified in the notice, and that those violations are the same as those allegedly suffered by the representative group of employees. (Lab. Code, §§ 2699, subd. (c)(1), 2699.3, subd. (f).) The aggrieved individual must also show that he seeks penalties only for violations he personally sustained. (*Ibid.*)

Here, Mr. Harvey’s PAGA Notice fails to establish the requisite standing requirement. As was set forth in his PAGA Notice, Mr. Harvey was employed as an Anesthesia Technician “primarily at UCSF Mount Zion Medical Center” during the period from January 2025 through

¹ The PAGA Notice is dated September 26, 2025, but was not filed with the LWDA until September 29, 2025.

April 2025. The PAGA Notice alleges violations arising from purported meal and rest break violations during his assignment at UCSF Mount Zion Medical Center.

However, Mr. Harvey could not have personally sustained any such violations because UCSF Mount Zion Medical Center is **a public healthcare entity**. The California Supreme Court has expressly held that public healthcare entities are exempt from the meal and rest break provisions of the California Labor Code. (*Stone v. Alameda Health System* (2024) 16 Cal.5th 1040.) The Court further held that public healthcare entities are also exempt from PAGA penalties because they are not “persons” within the meaning of the Labor Code. (*Ibid.*)

Accordingly, because UCSF Mount Zion Medical Center is exempt from both the underlying Labor Code provisions and PAGA penalties, Mr. Harvey could not have suffered any of the alleged Labor Code violations and therefore lacks the requisite standing to pursue a representative PAGA claim.²

Moreover, all of the factual allegations in Mr. Harvey’s PAGA Notice are based on these purported missed meal and rest breaks at UCSF Mount Zion Medical Center. His derivative claims for inaccurate wage statements and failure to pay all wages or premiums are entirely predicated on those alleged meal break violations. Unless Mr. Harvey is able to allege specific wage-and-hour violations that he personally sustained while working at a non-public healthcare facility during the relevant time period, he cannot establish the necessary injury to support a PAGA claim.

For these reasons, Aya Healthcare respectfully requests that the LWDA require Mr. Harvey to withdraw and amend his deficient PAGA Notice to address the deficiencies set forth above. Aya Healthcare further requests an additional thirty-three (33) days from the date of any such amended notice (if any) to investigate and, if necessary, cure any properly noticed and legitimate violations.

Best regards,

GORDON REES SCULLY MANSUKHANI, LLP



Mollie M. Burks

Phuong N. Fingerman

² During the time period alleged, Mr. Harvey worked predominately at UCSF Mount Zion Medical Center. He also was assigned to work at UCSF from 2/26/2025 – 2/27/2025 and at UC Davis Health from 3/31/2025 – 4/3/2025. UCSF and UC Davis Health are also public healthcare entities under the California’s public health care system.